

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.1636 OF 2018

AND

C.M.P.NO.12990 OF 2018

The Superintendent of Police,
District Police Office,
Perambalur,
Perambalur District.

... Appellant/
Respondent

Vs

Pottiyammal

... Respondent/
Petitioner

Prayer:-

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.09.2014 made in MCOP. No.45 of 2014 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge) Perambalur.

For Appellant : Mr.Dev Narendran,
Government Advocate

For Respondent : Mr.P.Paramasiva Doss

J U D G M E N T

This appeal has been filed by the Superintendent of Police, challenging the Award dated 25.09.2014 passed by the Motor Accidents Claims Tribunal, (Principal District Judge) Perambalur, in M.C.O.P.No.45 of 2014.

2. The brief facts leading to the filing of this appeal are as follows:

On 05.10.2012 at about 12.45 p.m., the deceased Vennila was walking on the Ariyalur-Perambalur Main Road keeping left side from north to south and when she was nearing Jayavel's land south side of Thanganagaram, the appellant's car bearing registration No.TN46-G-0338 came in a rash and negligent manner

at hectic speed from the opposite direction and dashed against the deceased, as a result of which she sustained fatal injuries. She was immediately admitted in the Government Hospital, Ariyalur, and in spite of best treatment she succumbed to the injuries. Since the accident had happened due to the rashness and negligence of the part of the driver of the car, Police have registered a case against him in Crime No.387/2012 under Section 304 (A) IPC. The respondent preferred a claim petition before the Motor Accidents Claims Tribunal in M.C.O.P.No.45 of 2014, seeking a compensation of Rs.10,00,000/-. The Tribunal, by its award dated 25.09.2014 directed the appellant to pay the respondent a sum of Rs.8,91,000/- together with interest at the rate of 7.5% per annum from the date of petition. Aggrieved by the same, this appeal has been filed.

3. According to the learned counsel for the appellant, the Tribunal has erred in awarding a huge compensation, when the fact remains that no proof of income and age of the deceased have been filed on the side of the claimant. The learned counsel has also disputed the finding of the Tribunal in fixing the entire liability on the part of the appellant, by stating that only the deceased was negligent and paved way for the accident.

4. Per contra, the learned counsel appearing for the respondent has submitted that the Tribunal, after considering the materials and evidence available on record in a proper perspective, has awarded the compensation, which is just, fair and reasonable and hence the same need not be interfered with by this Court.

5. Heard both sides and perused the records.

6. P.W.1-Pottiyammal, mother of the deceased, during cross examination before the Tribunal, denied the suggestion that at the time of accident, her daughter Vennila attempted to cross the road suddenly. The evidence of R.W.1-Driver of the car, is to the effect that when he was proceeding near Thanganagaram, a woman suddenly attempted to cross the road; that to avoid collision he reduced the speed and applied brakes, but the right side front wheel of the car got burst and after dashing on the woman, capsized on the eastern side of the road. In the counter, it has not been stated that at the time of accident, the tyre got burst and the car capsized. Thus, it is seen that the allegations made in the counter and the evidence of R.W.1 are contradictory to each other. It is also seen that the criminal case registered in this connection, has been closed as "mistake of fact". Taking note of the materials and evidence, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the car, which factual finding on the basis of threadbare analysis, does not

require any interference by this Court.

7. Coming to compensation part, the Tribunal has relied upon the First Information Report, Post Mortem Certificate of the deceased, Death Certificate of the deceased, Legal Heirship Certificate, judgment of the Hon'ble Supreme Court in the case of Sarla Verma and others v. Delhi Transport Corporation and another, reported in 2009(2) TN MAC 1 (SC), evidence of witnesses and all other aspects in a proper perspective and has awarded the compensation under various heads to the respondent. Further, this Court is of the considered view that the amounts awarded towards these heads are reasonable and justifiable and hence the same are confirmed.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Motor Accidents Claims Tribunal,
(Principal District Judge) Perambalur.

Copy To

The Section Officer,
VR Section, Madras High Court.

+1cc to Government Pleader, in Sr.NO.30327

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MG(CO)
CS/10/05/2021